

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.**

**MELVIN STOVER, JR.**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD70594  
**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: December 14, 2010

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Appeal From:

Clay County Circuit Court  
The Honorable Larry Dale Harman, Judge

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Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis, and Gary D. Witt, JJ.

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Attorneys:

Shaun J. Mackelprang and Evan J. Buchheim, Jefferson City, MO, for **respondent**.

Daniel L. Viets, Columbia, MO, for **appellant**.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**MELVIN STOVER, JR.,**

**APPELLANT.**

No. WD70594

Clay County

Before Division Three Judges: James M. Smart, Jr., P.J., Joseph M. Ellis, and Gary D. Witt, JJ.

Melvin Stover was the subject of a traffic stop on Interstate-70 in Lafayette County while he and a passenger were traveling from Las Vegas, Nevada, to Washington, D.C. After the officer asked Stover to come back to the patrol car, he investigated matters related to the traffic stop and the itinerary. The officer discovered that they were driving a rented vehicle, one-way, and did not have any luggage with them for the extended trip. Although the officer gathered the pertinent information related to the traffic violation and the itinerary within six minutes, the officer continued questioning both Stover and his passenger for another fifteen minutes or so. More than twenty minutes after the stop began, the officer asked Stover for permission to search the vehicle, and Stover refused. The officer then called in to request a canine unit for a drug dog. The canine unit arrived over forty-five minutes after the stop began. Fifty minutes after the stop began, the dog alerted on the trunk of Stover's vehicle. The officers found a large amount of PCP in the trunk, and Stover was arrested. Stover was convicted of first-degree drug trafficking. On appeal, Stover challenges his conviction on the basis that the evidence found in the trunk was improperly admitted because it was seized in violation of his Fourth Amendment rights, in that his detention for a traffic violation was unreasonably prolonged beyond the time required to investigate the traffic violation.

**VACATED AND REMANDED.**

**Division Three holds:** The officer investigated the traffic violation and asked about Stover's itinerary, which resulted in the officer having reasonable suspicion that Stover was a drug courier. But instead of asking for permission to search and (if denied) arranging for a drug dog to sniff, the officer continued the interrogation for an unnecessary fifteen minutes or so before asking for permission to search and deciding to employ the drug dog. This expanded interrogation was neither necessary nor appropriate in connection with the stop and was a violation of Stover's Fourth Amendment rights. Without the evidence seized as a result of that seizure, there was insufficient evidence to convict him. The judgment of conviction and sentence is vacated. The case is remanded to the circuit court.

*Per Curiam*

December 14, 2010

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